Before the
Federal Communications Commission
Washington, D.C. 20554

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| In the Matter of | ) | |
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| Application of Verizon New Jersey, Inc., | ) | |
| et al, For Authorization to Provide | ) | |
| In-Region, InterLATA Services | ) | CC Docket No. 01-347 |
| in New Jersey | ) | |
| | ) | |

**SUPPLEMENTAL DECLARATION OF CHRIS FRENTRUP
ON BEHALF OF WORLDCOM, INC.**

Based on my personal knowledge and on information learned in the course of my duties, I, Chris Frentrup, declare as follows:

## I. INTRODUCTION AND SUMMARY

1. I am the same Chris Frentrup who filed a Declaration that was part of WorldCom's initial comments in the above-captioned proceeding. See WorldCom Comments, Attachment B. I have reviewed the New Jersey Board of Public Utilities ("NJ-BPU") recent Decision and Order released March 6, 2002, which memorializes the decisions made in November, 2001 by the NJ-BPU regarding Verizon's unbundled network element ("UNE") rates.[1] The purpose of this Declaration is to demonstrate that the NJ-BPU has failed to require Verizon to correct three clear total element long run incremental cost ("TELRIC") violations, and thus that Verizon's current unbundled switching rates in New Jersey are not based on

[1] See In the Matter of the Board's Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic-New Jersey, Inc., Decision and Order, Docket No. TO00060356, released March 6, 2002 ("Decision & Order").

TELRIC and are excessive.[2] Unless these errors are corrected, the Commission should reject Verizon's section 271 application for New Jersey.

2. First, as WorldCom noted in its initial and reply comments, Verizon has used only the minutes for the peak usage days to determine the per-minute switch usage rates. Because this methodology excludes weekend and holiday usage, it results in excessive usage rates. The stated basis for the NJ-BPU's decision to allow use of this methodology is premised on a misunderstanding of the manner in which switches are engineered, and misinterprets cost models cited in the state record. Because this methodology does not use all the demand handled by the network, it violates the TELRIC methodology. The Commission should require Verizon to set its switching rates using all demand for the year, not just the demand on the 251 business days in the year. Making the conservative assumption that daily usage on these off-peak days would be half the daily usage on the peak days would lower the switch usage rates by 18.5 percent, as set forth in WorldCom's initial comments. A significantly greater reduction would occur when Verizon's model is run reflecting its actual ratio of peak to off-peak usage, as set forth in WorldCom's confidential reply comments.

3. Second, the resulting overstated switching rates are applied on both ends of an intra-switch call, even though the call passes through the switch only once. Assuming, as the Commission has in its TELRIC benchmark analyses, that 25 percent of local calls are intra-switch, this results in competitive local exchange carriers ("CLECs") being overcharged another 11 percent for switching. This issue is simply not addressed by the NJ-BPU at all. Both the New York and Massachusetts commissions, among others in the Verizon territory, have rejected

[2] In addition to the errors discussed in this declaration, the other input and methodology errors discussed in WorldCom's initial comments remain as well. The errors discussed in this Declaration are those that are indisputable TELRIC violation, which the Commission must require Verizon to correct before granting it Section

this double-charging for intra-switch calls. By allowing Verizon to set its per-minute switching rates based on less than the total number of minutes (by excluding weekend and holiday minutes), and then assessing those rates on more than the total number of minutes transiting a switch (by charging two minutes for each intra-switch minute), the NJ-BPU has clearly allowed Verizon to charge substantially more than the TELRIC of switching.

4. Finally, the NJ-BPU allows Verizon to inflate switch usage rates by the inclusion of the cost of vertical features in those variable rates rather than in the fixed port rate. One policy justification cited by the NJ-BPU for doing so is that placing more costs in usage rates will encourage CLECs to deploy more of their own switches. However, TELRIC principles require that rates be set to recover costs. Setting prices at above-cost levels cannot be excused by a policy judgment that doing so is desirable to provide an extra incentive to CLECs to increase their investment.

## III. VERIZON'S USE OF ONLY BUSINESS DAYS TO SET SWITCHING RATES IS INCONSISTENT WITH TELRIC

5. Switch usage rates should be set by dividing the cost of the usage portion of the switch by the total annual switched minutes. Verizon first correctly determines the size of the switches needed based on peak minutes of usage for the switches. It then determines total annual switched minutes in two steps. It first determines average daily usage of the switch by multiplying minutes of peak usage by the ratio of busy hour usage to total usage. After obtaining the average daily usage in this manner, Verizon then obtains total annual switched minutes by multiplying the average daily usage by only 251 days, that being the number of weekdays less holidays in a year. This methodology for determining the number of minutes in a year allows

271 approval for New Jersey.

Verizon to recover all of its usage-sensitive costs of the switch over 251 days. As a result, all usage-sensitive charges that competitors pay in the remaining 114 days of the year are for costs that are already recovered in the other 251 days. The result is that Verizon's usage-sensitive switch charges are grossly in excess of its costs. The NJ-BPU uses three rationales for accepting Verizon's use of this methodology.

6. First, it agrees with Verizon's claim "that the busy hour determination is relevant to both sizing the switch and determining the manner in which costs should be spread among users." Decision & Order at 122. WorldCom agrees that busy hour usage should determine the size of the switch. Switches are sized to provide an acceptable level of blocking of calls during the busy hour. However, once that size of switch is set, the correct usage to set the per-minute rate is all minutes that will be assessed the usage charge, not just usage during weekdays. Either Verizon should set the switch usage rate by dividing costs by all minutes, or Verizon should charge a zero rate for minutes that occur on weekends and holidays.

7. The second reason given by the NJ-BPU for not including weekend and holiday usage in setting the rate is that weekend and holiday usage would "effectively reduce average switch capacity." Id. This is incorrect. There is no such thing as "average switch capacity." A switch has a given capacity, once it is designed and put in place. If the minutes going through a switch in the busy hour is, e.g., 1 million, it does not matter whether the busy hour occurs once a month or once a week or once a day. A switch sized to handle 1 million minutes in the busy hour will be able to handle 1 million minutes every hour. Hours that do not have that level of demand do not change the switch's capacity, they merely change its average utilization.

8. Finally, the NJ-BPU cites the use of business days in the HAI Model and in a cost study sponsored by WorldCom's expert witness in a separate proceeding as justifying their use in this case. The NJ-BPU has misunderstood the use of business days in both cases. In the HAI Model (and in fact, in the Commission's Synthesis Model), the number of business days is used as an input to estimate the number of minutes switched in the busy hour given an annual number of minutes.[3] This estimate of busy hour minutes is then used to size the switch. However, once the size of the switch is determined, the usage rate is determined by dividing that switch usage costs by all minutes of use. Similarly, the study cited by the NJ-BPU that was performed by WorldCom's expert witness was for another CLEC that in fact had very little usage on the weekends. In any case, even that small amount of weekend usage was included in the cost study.

9. The rationales proffered by the NJ-BPU in justification of its decision to allow Verizon to use only business day demand in setting switch usage rates misunderstand switch engineering and the role that business days played in other costs studies. Those rationales do not justify the NJ-BPU's decision. Since the use of only business days violates the TELRIC requirement that all demand be considered, the Commission should reject the use of only business days in setting switch usage rates. As previously explained in WorldCom's comments, using the very conservative assumption that usage on non-peak days is only half the level of usage on peak days implies that the switch usage rates should be 18.5 percent lower.[4] Use of

3 Note that Verizon's methodology does the opposite operation – given a number of busy hour minutes, it uses the number of business days to obtain an estimate of the total number of minutes.

4 Assuming that demand on these weekends and holidays is half the demand on business days is exactly the approach taken by the New York Public Service Commission in its recent decision on unbundled switching rates. See Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements, Case 98-C-1357, Order on Unbundled Network Element Rates, released January 28, 2002, at pages 36-39.

Verizon's own cost model shows a much larger effect, as explained in WorldCom's reply comments. The Commission should require Verizon to correct this clear error by reducing Verizon's switch usage rates to reflect usage on all days, or alternatively to offer switching usage at a zero rate on weekends and holidays, before it grants section 271 authority to Verizon.

## III. INTRA-SWITCH CALLS SHOULD NOT BE ASSESSED TWO SWITCH USAGE CHARGES

10. Having developed an overstated switch usage rate, Verizon further raises CLEC costs by imposing this inflated switching rate twice for intra-switch calls, even though an intra-switch call passes through the switch only once. This "double charging" issue was not addressed in the Decision & Order, even though it was raised in the proceeding by WorldCom. This practice has been explicitly rejected by both the New York and Massachusetts commissions, and should be rejected for New Jersey as well. Intra-switch calls do not use the switch processor two times. The call arrives at the switch from one customer, is processed by the single switch and routed to another customer who is served by that same switch. The call does not pass through the switch processor twice, and thus should not be charged for both an originating and terminating minute. Under the Commission's assumptions of 25 percent of local calls being intra-switch, this inflates CLEC switching costs by about 11 percent.

## IV. VERTICAL FEATURES COSTS SHOULD BE RECOVERED IN PORT RATES

11. The NJ-BPU declined to require Verizon to recover vertical features costs in the fixed port charge rather than in the variable usage charge. Its justification for doing so was that placing more costs in the usage sensitive rates would encourage carriers "to evaluate the feasibility of deploying their own switches to eliminate the uncertainty that comes with purchasing switching from Verizon NJ." See Decision & Order at 125. If rates are set cost-

causatively, both as to levels and structure, other carriers will receive the correct signals for deploying their own switches. The NJ-BPU is apparently willing to countenance usage rates that are set too high, in order to carry out its policy judgment that such high rates would be desirable to incent CLECs to install their own switches. This is a clear violation of TELRIC principles, and should not be permitted by the Commission.

## IV. SWITCH RATES SHOULD BE REDUCED BY NEARLY HALF

12. The combined effect of these errors is to overstate Verizon's switching charges substantially. WorldCom estimates that correcting the number of business days as reflected in Verizon's cost model, moving the features costs to the port rather than usage rates, and removing the double charging for intra-switch calls would cut overall switch charges paid by competing carriers by about 45 percent. This would reduce the sum of port and switching charges below the recently adopted New York rates, consistent with the somewhat lower switching costs in New Jersey identified by the Commission's Synthesis Model.

## V. CONCLUSION

13. The NJ-BPU's recent Decision & Order makes several clear errors in applying the TELRIC methodology to set switching rates. Until these errors are corrected, the Commission should reject Verizon's section 271 application.

14. This concludes my Declaration on behalf of WorldCom.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 13, 2002.

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Chris Frentrup